## UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

BOSTON AND MAINE :

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CORPORATION,

Plaintiff,

-v.- : Civil Action No. 05-11656-RCL

MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY

Defendant.

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## JOINT MOTION FOR LEAVE TO FILE REPLY MEMORANDA IN SUPPORT OF CROSS MOTIONS FOR PARTIAL SUMMARY JUDGMENT

Plaintiff Boston and Maine Corporation ("B&M") and Defendant Massachusetts Bay

Transportation Authority ("MBTA") (jointly the "Parties") hereby jointly move for leave to file
reply memoranda in support of their respective Motions for Partial Summary Judgment ("Partial
Summary Judgment Motions") in the above-captioned action. The Parties filed their respective

Partial Summary Judgment Motions on June 2, 2006 and their Oppositions to the same on June
23, 2006.

As grounds for this motion, the Parties state that reply arguments are warranted because the Parties wish to address issues that were raised for the first time in Opposition to the Partial Summary Judgment Motions, including addressing documents that were recently produced for the first time by the Massachusetts Department of Environmental Protection, who is not a party

to this action. The Parties believe that such arguments will be of assistance to the Court in

resolving the issues presented by the Partial Summary Judgment Motions.

The Parties therefore respectfully request permission to file reply memoranda on or before July 14, 2006. The Parties also request a page limit of ten pages for their respective reply briefs. The Parties also note that granting leave to file reply memoranda will not interfere with the trial of this action because this matter has been bifurcated, the Motions for Partial Summary Judgment pertain only to Phase I of this action (bankruptcy discharge), and no schedule has been established for Phase II discovery (liability and damages) or for trial.

Respectfully submitted,

WINSTON & STRAWN LLP Attorneys for Plaintiff, Boston & Maine Corporation

FOLEY HOAG LLP Attorneys for Defendant, Massachusetts Bay Transportation Authority

By: /s/ Eric L. Hirschhorn Eric L. Hirschhorn Winston & Strawn LLP 1700 K Street, N.W Washington, D.C. 20006 (202) 282-5000

By: /s/ Alicia Barton McDevitt John M. Stevens Alicia Barton McDevitt Foley Hoag LLP 155 Seaport Blvd. Boston, MA 02210 (617) 832-1000

Dated: June 29, 2006

## UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

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BOSTON AND MAINE CORPORATION,		
Plaintiff,	•	
v.	•	CIVIL ACTION No. 05-11656-RCL
MASSACHUSETTS BAY TRANSPORTATION AUTHORITY,	•	
Defendant.	•	

## **CERTIFICATE OF SERVICE**

I hereby certify that true and accurate copies of the following, which were filed via the Court's ECF system, will be sent electronically by the ECF system to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on June 29, 2006:

- 1. Joint Motion for Leave to File Reply Memoranda In Support of Cross Motions for Partial Summary Judgment; and
- 2. this Certificate of Service.

/s/ Alicia Barton McDevitt

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